45th Annual Report

MOTOR CARRIER COMMISSION

PROVINCE OF BRITISH COLUMBIA

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45th Annual Report
Covering the Licence-year Ended
February 28, 1985

Annual Report of the
Motor Carrier Commission

Pursuant to Section 34
of the Motor Carrier Act

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VANCOUVER, BRITISH COLUMBIA

To His Honour the Lieutenant Governor in Council
of the Province of British Columbia

MAY IT PLEASE YOUR HONOUR:

SIR: We respectfully transmit herewith the Forty-fifth Annual Report, pursuant to the provisions of section 34 of the *Motor Carrier Act*, covering the licence-year ended February 28, 1985.

MOTOR CARRIER COMMISSION

GERARD M. MORRIS, *Acting Chairman*

IAN W. CRAIG, *Commissioner*

GEORGE MUSSALLEM, *Commissioner*

REPORT OF THE MOTOR CARRIER COMMISSION, 1984/85

GENERAL

Motor carriers in the Province of British Columbia have been regulated for approximately 50 years through a system of licensing, initially under Part V of the *Highways Act*, then by the Public Utilities Commission, a body created under the *Public Utilities Act*, and finally by the Motor Carrier Commission, which was established in 1973.

The Commission derives its authority from the *Motor Carrier Act*, a provincial statute, and by delegation from the Government of Canada through the *Motor Vehicle Transport Act*, a federal statute.

Section 31 (1) of the *Motor Carrier Act* provides for the appointment by the Lieutenant Governor in Council of three persons to the Commission. The present members of the Commission are Gerard M. Morris, who is Acting Chairman, Commissioner Ian W. Craig, who was appointed effective February 1, 1984, and Commissioner George Mussallem, who was appointed on September 20, 1984.

APPLICATIONS

A total of 3,261 applications was filed with the Commission during the licence period of March 1, 1984, to February 28, 1985. Of that total, 2,304 required investigation and the balance were applications for additional licences with no change to the operating authority. Both figures reflect significant increases over the previous year.

PUBLIC HEARINGS

The Commission conducted a total of 61 hearings during the course of the 1984/85 licence year, including 23 full scale public hearings involving applications for licence authority, 32 reviews of previous decisions, five hearings at which licensed carriers were required to Show Cause why their licences should not be cancelled, and one public forum related to the operation of taxi cabs in the Lower Mainland.

Although the Commission schedules the majority of its hearings in Vancouver or Burnaby, a number were set down in out-of-town locations, including Castlegar, Whistler, Victoria, and Penticton in British Columbia. The Commission also participated with the other three western provinces and Ontario in an extensive joint public hearing in Toronto, Ontario.

Some of the more significant orders and decisions issued by the Commission during the current licence-year are attached hereto as Appendix B to this report.

COMPLIANCE

The majority of licensed carriers comply substantially with the requirements of the *Motor Carrier Act* and Regulations of British Columbia and the *Motor Vehicle Transport Act* (Canada). Typical examples of non-compliance include the failure to issue Bills of Lading, remit C.O.D. monies, adhere to time schedules, maintain adequate (or any) cargo insurance, maintain safe operating equipment, and the transportation of freight or passengers by vehicles not licensed by the Commission, or in a manner not authorized.

Enforcement is carried out by the Commission through various means, including education, instruction and counselling by members of the Motor Carrier Branch staff, and enforcement procedures applied by motor carrier inspectors and other agencies,

including the Royal Canadian Mounted Police, municipal police forces, and Weigh Scale personnel, who, by an Order of the Commission, are authorized to conduct these activities on its behalf.

Motor Carrier Branch staff participated in a number of "saturation" type road checks of commercial vehicles during the licence-year under review, in co-operation with the Royal Canadian Mounted Police, Motor Vehicle Branch/Weigh Scale staff, and a number of other ministries and branches, both provincial and federal.

STATEMENT OF MECHANICAL CERTIFICATION OF VEHICLES

In the interest of safety on the highways, the Motor Carrier Commission implemented a new policy effective October 1, 1984, which requires applicants, before either temporary or permanent licence authority is issued, to file with the Commission a statement signed by a principal or an authorized designate of the applicant company, certifying that the vehicles to be licensed are in safe operating condition as required by the laws of British Columbia, and further that the person signing is aware of the requirements of Regulation 6.33 of the *Motor Carrier Act*, which reads as follows:

> It shall be the duty of every licensee to maintain his licensed vehicle or vehicles in a safe operating condition, and for this purpose to arrange for inspection of same by a competent inspector or mechanic at sufficiently frequent intervals.

REVENUE

Revenue from licence fees, permits and miscellaneous sources for the year under review amounted to $1,261,178, an increase of some $55,000 over the revenue generated in the previous year. In addition, fines totalling approximately $180,000 were collected through the provincial courts as a result of charges laid by Weigh Scale personnel who assist the Commission in its enforcement procedures. An amount probably equal to that latter figure was also paid into general revenue on account of charges laid by other enforcement agencies who also assist the Commission in these matters.

Statistics on revenue, the number of permits issued, and a comparison of licences issued, are contained in Appendix A attached hereto.

TARIFF AND TIME SCHEDULES

Motor carriers who carry passengers or freight for compensation between points in the Province of British Columbia are required under the *Motor Carrier Act* to file schedules, i.e., tariffs, of their rates and charges. Public passenger carriers and Class I and Class II carriers of freight are also required to file time schedules. These schedules are to be adhered to and changes are allowed by the Motor Carrier Commission only after successful application is made for variance. The Commission, during the licence-year ended February 28, 1985, has continued the policy of not regulating tariffs of freight or passenger carriers interprovincially or internationally even though it has authority to do so under the federal *Motor Vehicle Transport Act*.

The table following sets out the number of rate changes and time schedule applications filed during the licence-year 1984/85:

The Number of Applications Filed During Licence-years Ending in the Month of February of Each Year Referred to

	1981	1982	1983	1984	1985
Rate	521	554	444	336	278
Time	20	19	21	21	44

RETIREMENT OF SUPERINTENDENT OF MOTOR CARRIERS

Superintendent Allan R. Fitch, who began his career with the Motor Carrier Branch as an office boy at its old Georgia Street location, retired in December 1984, after 38 years of continued service. Mr. Fitch was Deputy Superintendent for two years before being promoted to the position of Superintendent in 1974. Some 150 people, including past and present members of the Motor Carrier Commission, as well as Ministry officials and other guests, honoured Mr. and Mrs. Fitch at a farewell dinner in Burnaby, B.C., on December 13, 1984.

APPENDIX A

SUMMARY OF TOTAL REVENUE FOR THE LICENCE-YEAR 1984/85

	$
Licence fees	1,170,848
Temporary permits	17,703
Miscellaneous	72,627
	1,261,178

REVENUE—ANNUAL COMPARISONS

The following is a comparative table by years of gross revenue:

Kind of Licence	1981/82	1982/83	1983/84	1984/85
	$	$	$	$
Passenger (buses)	128,496.65	138,096.61	134,563.61	145,278
Passenger (taxis)	108,502.15	118,101.11	114,563.62	125,279
Public and limited freight	826,603.47	884,239.47	871,945.30	900,291
Permits	57,819.86	19,459.37	21,633.70	17,703
Miscellaneous[1]	67,769.15	56,754.50	62,966.45	72,627
Totals	1,189,191.28	1,216,651.06	1,205,672.68	1,261,178[2]

[1] Includes fees for transfers, alterations of licences, and for copies of conditions of licences and transcripts.

[2] A change to the accounting methods used in the Motor Carrier Branch was made this licence-year. Fees for licences are not now received with applications and recorded in a suspense account until licences are issued. The present method is to return monies if received in advance and to require payment only at the time licences are to be issued.

TEMPORARY PERMITS

Permits grant temporary exemption from the *Motor Carrier Act* of the necessity of obtaining a licence (operating authority) or alteration of licence, with respect to the operation of a vehicle in the manner stated therein. The holder of a temporary permit is subject to the safety provisions of the *Motor Carrier Act* and Regulations to the same extent as if he were operating a licensed vehicle. The issuance of permits is at the discretion of the Commission and allows for immediate response to be made to the requirements of trade and industry or the general public.

The following is a summary of the number of temporary permits issued during the year 1984/85:

Class II permits (for temporary operation as a public or limited vehicle not exceeding 92 days)	5,663
Class III and Class IV permits (for operation of a licensed public or a limited vehicle temporarily in a manner other than is authorized by the licence, or pending consideration of an application for licence, renewal, alteration, or transfer of a licence, etc.)	20,618
Special temporary permits (issued for the transportation of household goods to carriers from provinces having reciprocity agreements with the Province of British Columbia respecting commercial motor vehicle licences)	238
Total	26,519

NUMBER OF LICENCES—ANNUAL COMPARISONS

The following table, by years, gives the number of licences for the various classes issued:

Kind of Licence	Number of Licences, New and Renewed			
	1981/82	1982/83	1983/84	1984/85
Passenger (buses)	2,206	2,221	2,246	2,191
Passenger (taxis)	2,348	2,363	2,388	2,228
Public freight	23,522	25,289	25,340	27,036
Limited freight	2,547	2,562	2,589	3,088
Totals	30,623	32,435	32,561	34,543

APPENDIX B

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

21-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Applications for Motor Carrier Licence Authority of: (A) Byers Transport Ltd., Published as No. 2127A/82, 37/83, and 1864/83; (B) G & G Trucking Ltd., Published as No. 38/83.

Before: GERARD M. MORRIS, *Acting Chairman*.

Dated the 1st day of March 1984.

ORDER

The applications of Byers Transport Ltd. (hereinafter referred to as "Byers"), published as Nos. 2127A/82, 37/83, and 1864/83, together with the application of G & G Trucking Ltd. ("G & G"), published as No. 38/83, came on for joint hearing before the Motor Carrier Commission on February 20, and was completed on February 22, 1984.

In addition, as part of the proceedings, the Commission, by prior notice, gave G & G the opportunity to Show Cause why all of the licences issued to it should not be cancelled due to failure on its part to exercise the rights and privileges granted by the licence, or to provide an adequate and efficient service.

The Commission heard a significant number of witnesses and considered a substantial number of exhibits and other material filed prior to and during the course of the three-day hearing.

Byers was represented by Counsel, Mr. Tobin Robbins. The qualified objectors, Okanagan Valley Transport Ltd., and Direct System Ltd., were represented respectively by company officials, Messrs. L. V. Loveset and A. Carrol. The British Columbia Motor Transport Association, which objected on principle to the proposed transfer of authority between the two applicants, was represented by Mr. Rob Weston. West Arm Truck Lines Ltd. was represented by Counsel, Mr. R. W. Macdonald.

Following representations at the hearing by Mr. Robbins, Counsel for Byers, three carriers: Public Freightways Ltd., Clark Reefer Lines Ltd., and Rocky Mountain Transport Ltd., were ruled out as qualified objectors by reason of not complying fully with the requirement of Regulation 4.16 that at least ten calendar days prior to the date of the hearing they deposit with the Commission a security deposit, and file a statement of their objections.

G & G was not represented by any person (the trustee in bankruptcy did not appear) and as a result G & G failed to Show Cause why its licence should not be cancelled.

It is ordered, therefore, that all of the licence authority issued to, and in the name of, G & G Trucking Ltd., be and it is hereby cancelled, and any rights or privileges arising therefrom be and they are hereby extinguished.

Following on that decision, as G & G Trucking Ltd. has no licence authority, it is evident that the application to transfer certain licence authority through a yield and acquire arrangement from G & G to Byers cannot be dealt with and must be dismissed.

Accordingly, it is ordered that the application of Byers Transport Ltd., published as No. 37/83, and that of G & G Trucking Ltd., published as No. 38/83, be and they are hereby dismissed.

In addressing the matter of the Byers application published as No. 1864/83 (the loop service between Nelson and Trail), the Commission has carefully considered all of the information available to it and makes the following findings of fact:

(1) No compelling evidence of urgent need or inadequate service has been provided to the Commission;

(2) Traffic arising in and carried between points on the loop area is not substantial;

(3) Okanagan Valley Transport Ltd. serves Byers both as an agent and as an interline carrier;

(4) Byers stated that Okanagan Valley Transport Ltd. had attempted to provide good service on behalf of Byers;

(5) A substantial part of Okanagan Valley revenue is generated from the services it provides for Byers;

(6) Okanagan Valley has recently undertaken significant financial expenditures and obligations which would enable them to better handle some of the products they now carry for Byers;

(7) Byers is entitled to special consideration for certain freight it carries for Terra Mines Ltd.

Based on these findings, the Commission feels that it should not, at the present time, grant this particular application.

Accordingly, it is ordered that the application of Byers Transport Ltd., published as No. 1864/83, be and it is hereby refused.

As indicated, the Commission feels that the needs of the shipper, Terra Mines Ltd., for an efficient, direct service from the B.C./Alberta border to Trail, B.C., must be satisfied. It seems ludicrous on the face of it that Byers transports silver ore concentrate some fourteen hundred miles from Yellowknife, NWT, to Nelson, B.C., but then must use an interline service to transport it the additional forty-five miles from Nelson to the smelter in Trail, B.C.

Accordingly, it is ordered that Byers Transport Ltd. be and it is hereby granted the following additional licence authority:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
Silver ore concentrate.	Terra Mines Ltd.	From the B.C./Alberta border delivered to Trail, B.C.

The granting of this additional licence authority is subject to compliance by the applicant with the requirement that a suitably worded contract between it and Terra Mines Ltd. be filed with the Motor Carrier Branch.

The application of Byers, published as No. 2127/82, to provide a general freight service (LTL) from Kamloops to Licence District No. 1, and vice versa, was well supported by shipper witnesses, as well as by letters filed as exhibits, and was not subject to significant opposition from the objectors present. In considering this application, the Commission concluded that although the volume of freight available is not great, there appears to be a public need that is not being met at this time. It would be in the public interest, therefore, to grant the application.

Accordingly, it is ordered that the application of Byers Transport Ltd., published as No. 2127/82, be and it is hereby granted in the terms applied for.

It is further ordered that all of the security deposits filed in connection with this hearing be refunded by the Motor Carrier Branch.

Approved by:
GERARD M. MORRIS
Acting Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

33-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 2832/81 of Kamloops Charter Services Ltd.

Before: GERARD M. MORRIS, *Acting Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 12th day of April 1984.

ORDER

Whereas the Motor Carrier Commission, by its Order No. 6-83 dated January 24, 1983, reserved its final decision respecting the application of Kamloops Charter Services Ltd., published as No. 2832/81; and

Whereas Temporary Operating Permits were issued to the applicant during the interim period, to be renewed as required, to operate one Limited Passenger-vehicle in the manner applied for as an intra-provincial carrier; and

Whereas the Commission has now reviewed the application of Kamloops Charter Services Ltd., published as No. 2832/81, according to the terms of the said Order; and

Whereas the Commission has considered carefully all of the information gained in the interim period, during which time the operation of the applicant was closely monitored by the Superintendent of Motor Carriers; and

Whereas the Motor Carrier Commission has decided that it would be in the public interest to grant the applicant the same authority exercised by him under the terms of the Temporary Operating Permits for over one year as an intra-provincial carrier, subject to certain pre-requisite conditions being met;

Accordingly, the Motor Carrier Commission orders that the application of Kamloops Charter Services Ltd., published as No. 2832/81, be and it is hereby granted in the terms *originally* applied for (prior to being amended at the hearing), as an intra-provincial carrier, subject to *prior* compliance by the applicant with the following four conditions:

(1) File with the Motor Carrier Branch an acceptable Maintenance Program for its mechanical equipment, pursuant to Regulation 6.64 of the *Motor Carrier Act;*
(2) File with the Motor Carrier Branch an acceptable Form of Certification that the equipment proposed to be used is mechanically safe and roadworthy;
(3) File with the Motor Carrier Branch an acceptable Form of Certification that the vehicle(s) intended to be used and in particular its washroom facility has passed inspection by the appropriate authorities, pursuant to Regulation 6.641 of the *Motor Carrier Act;*
(4) Submit the vehicle(s) proposed to be used to the Inspector of Motor Carriers in Kamloops, B.C. for a final visual inspection before being placed into service under the authority herein granted.

Once these conditions have been met, the licence authority granted by this Order will be issued to Kamloops Charter Services Ltd. At the same time, the previous restriction imposed on the applicant to use one vehicle only will be automatically lifted, and an application for an additional Limited Passenger-vehicle Licence from this applicant will be considered on its merits by the Commission in the established manner.

The applicant is hereby cautioned that failure to operate within the scope of its licence authority herein granted, or the requirements of the *Motor Carrier Act* and/or its Regulations, or failure to maintain its vehicle(s) in an acceptable manner respecting safety and cleanliness, may result in the applicant being required by the Commission to Show Cause why its licence authority should not be cancelled, pursuant to section 9 of the *Motor Carrier Act*.

Approved by:
GERARD M. MORRIS
Acting Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

36-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 1499/83 of Time Transportation Systems Inc., Whistler, B.C.

Before: GERARD M. MORRIS, *Acting Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 30th day of April 1984.

ORDER

The application of Time Transportation Systems Inc. (the applicant), published as No. 1499/83, came before the Motor Carrier Commission for hearing on Monday, April 16, 1984, at Whistler, B.C.

The said application was for the addition to the existing Class III (non-scheduled service) licence authority already held by the applicant of a Class I (scheduled service) authority to transport general freight between Burnaby, B.C. and Pemberton, B.C., providing service to named points on route.

The applicant in these proceedings was represented by Counsel, Mr. L. R. Peterson, Q.C., and the sole qualified objector, Squamish Freightways Ltd., was represented by its general manager, Mr. John Halverson.

Nine witnesses gave testimony in support of the application, including Mr. Lawrence B. Gunn, a major shareholder and manager of the applicant company. The shipper witnesses generally praised the transportation services provided by the applicant and stressed the benefits of more competition and the need for a faster and more dependable service than that provided by the objector.

One of the problems facing the applicant, and the prime reason for the application, was the presence in its existing Conditions of Licence of a restriction relating to Clause 1 (general freight for any individual or company) reading as follows:

Restriction: The service authorized under this authority is restricted to shipments no *single piece* of which shall exceed 50 (fifty) pounds (22.6 kg) in weight. (Emphasis added).

The interpretation placed on the said restriction by the Commission is that the applicant is not authorized to transport a single piece of freight (meaning a box, container, package or item) which weighs over 50 pounds. The applicant, on the other hand, felt the restriction referred to each item, meaning, for instance, one brick on a pallet of bricks.

Consequently, the applicant was transporting freight weighing over and above what the Commission felt was the permitted weight, and several oral Cease and Desist Orders (based on the Commission's ruling) were directed to the applicant by Inspectors of the Motor Carrier Branch. The applicant, however, continued to rely instead on its own interpretation, which was perceived by the Commission to be contrary to the intent and meaning of the applicant's authority.

In presenting its case in support of the application, certain admissions were made not only by several witnesses, but also by a principal of the company, of violations knowingly and deliberately carried out by the applicant in the transportation of refrigerators, ranges and other items for Sears without even the pretence of having the necessary authority to do so. Mr. Gunn candidly admitted on the stand that he very seldom, if ever, refused a shipment for a customer because of the weight restriction.

While there may be a certain amount of understanding for a licensed carrier who is perplexed or who misinterprets the exact meaning of a restriction, the Commission cannot condone such outright, knowing and flagrant breaches of the *Motor Carrier Act* and Regulations, in the face of a Commission ruling, as those admitted to by the applicant at these proceedings.

The Commission orders, therefore, that:

(1) the motor carrier licence authority issued to and in the name of Time Transportation Systems Inc. be suspended for a 10-day period, commencing on Monday, May 21, 1984, to and including Wednesday, May 30, 1984;

(2) pursuant to sub-section 9 of section 3 of the *Motor Carrier Act*, Time Transportation Systems Inc. has the option of paying a pecuniary penalty of $100 for each day during which, but for this alternative, the suspension would be in effect;

(3) if the pecuniary penalty is not paid prior to May 21, 1984, the 10-day suspension will go into effect on May 21, 1984.

In considering the application on its merits, the Commission, based on the information gained at the hearing, finds that the applicant has conducted a fast, dependable, efficient operation, well supported by its customers, and has demonstrated to the satisfaction of the Commission a need for the additional services sought to be licensed.

Accordingly, the Commission orders that Time Transportation Systems Inc. be and it is hereby granted authority to provide a Class I scheduled service in the following terms:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
General freight.	For any individual or company.	Between Burnaby and Pemberton by direct route serving route points as defined.

Terminal Points Defined:

Burnaby: The District Municipality of Burnaby and points within thirty-five (35) road-miles (56 km) of its boundaries.

Pemberton: The District Municipality of Pemberton and points within fifty (50) road-miles (80 km) of its boundaries.

Route Points Defined:

Horseshoe Bay: Horseshoe Bay and points within ten (10) road-miles (16 km) of its post office.

Squamish: The District Municipality of Squamish and points within ten (10) road-miles (16 km) of its boundaries. Also serving Woodfibre on request.

Whistler: The District Municipality of Whistler and points within ten (10) road-miles (16 km) of its boundaries.

In the Commission's view, the granting of this expanded authority renders unnecessary and dormant the authority previously held under existing Clause No. 1, together with the troublesome restriction herein referred to earlier.

It is ordered, therefore, that the Conditions of Licence and licence authority issued to Time Transportation Systems Inc., be and they are hereby revised by the deletion therefrom of the following clause and attached restriction:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
1. General freight.	Any individual or company.	Between points situated within the Resort Municipality of Whistler and the District Municipality of Squamish, and from this area delivered to the City of Vancouver and points situated within fifteen (15) road miles (24.139 km) from the boundaries thereof: or vice versa.

Restriction: Re: Clause No. 1

The service authorized under this authority is restricted to shipments, no single piece of which shall exceed fifty (50) pounds (22.6 kg) in weight.

It is further ordered that the security deposit filed by the applicant and by the objector in this matter be refunded.

Approved by:

GERARD M. MORRIS
Acting Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

37-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review by the Motor Carrier Commission of its Decision Dated February 15, 1984, Cancelling all of the Motor Carrier Licences Issued to and in the Name of Columbia-Western Transportation Systems Inc.

Before: GERARD M. MORRIS, *Acting Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 3rd day of May 1984.

ORDER

Whereas the Motor Carrier Commission scheduled a hearing for February 13, 1984, at which time Columbia-Western Transportation Systems Inc. (the respondent) was to be given the opportunity to Show Cause why all of the licences issued to it should not be cancelled; and

Whereas when the hearing was convened at the appointed time, date and place no-one appeared to represent the respondent, although it was formally notified of the proceedings by registered letter as required by section 43 (2) of the *Motor Carrier Act;* and

Whereas following that hearing the Commission issued its Order No. 14-84 on February 15, 1984, cancelling all of the licences issued to the respondent; and

Whereas Mr. Peter Buurman, the respondent's accountant, by letter dated February 23, 1984, advised the Commission that he had been misinformed as to the date of the hearing and truly believed it to be scheduled for February 14, 1984, instead of the actual date of February 13, 1984; and

Whereas Mr. Buurman, on behalf of the respondent, asked the Commission to review its decision in this matter; and

Whereas the Commission, in the interest of natural justice, agreed to review its decision, and accordingly set the matter down for rehearing on March 12, 1984; and

Whereas Mr. Peter Buurman, together with Mr. Brian Bertie, sole shareholder of the respondent company, appeared at the hearing, and made representations as to why its licence authority should not be cancelled; and

Whereas Mr. Brian Bertie, the sole shareholder of the respondent company, admitted that very little service had been provided for a year mainly because he had been seriously ill for a long period of time and his illness had aggravated the financial and other problems experienced by his company; and

Whereas Mr. Bertie indicated in his testimony that his health had now improved considerably, a line of credit had been secured, and warehouse facilities had been arranged for, so that service could be commenced again; and

Whereas at the conclusion of the review hearing the Commission asked Mr. Bertie to submit acceptable documentary evidence that a suitable line of credit had been established, and that warehouse facilities had been arranged for, upon receipt of which the Commission would render its decision in this matter; and

Whereas the Commission, in reviewing all of the information before it, including the documentary evidence herein referred to, the last of which was received on April 30, 1984, has concluded that due to the mitigating circumstances present, the respondent ought to have the opportunity to resume service to the public and retain its licence authority;

Accordingly, it is ordered that the Commission's previous decision in this matter dated February 15, 1984, cancelling all of the motor carrier licence authority issued to and in the name of the respondent be and it is hereby rescinded.

It is further ordered that all of the motor carrier licence authority issued to and in the name of Columbia-Western Transportation Systems Inc. be and it is hereby continued in force, *except* that the Conditions of Licence attached thereto be and they are hereby amended by the deletion therefrom of reference to the two named shippers, Prairie Export-Import Ltd., and Columbia Produce Ltd.

The respondent should note that the Superintendent of Motor Carriers has been directed to monitor the operation of Columbia-Western Transportation Systems Inc. for a period of one year and report periodically to the Commission as to the actual compliance by the said licensee with its Conditions of Licence, and all other requirements of the *Motor Carrier Act* and Regulations attached thereto.

Approved by:

GERARD M. MORRIS
Acting Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

41-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review of Application No. 494/83, of Pacific Northwest Carriers Inc.

Before: GERARD M. MORRIS, *Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 22nd day of May 1984.

ORDER

Whereas the Motor Carrier Commission, after considering the application of Pacific Northwest Carriers Inc. (the applicant), published as No. 494/83 for alteration to the Area That May be Served section of Clause No. 4 of its existing licence authority, refused the application on December 13, 1983; and

Whereas the said applicant filed an appeal from that decision pursuant to section 52 of the *Motor Carrier Act*; and

Whereas the said appeal came before an Executive Council Committee chaired by the Honourable R. H. McClelland for hearing on March 22, 1984; and

Whereas the Committee hearing the appeal felt that there were reconcilable differences between the applicant and the objectors on record, and by letter dated April 2, 1984 referred the matter back to the Commission for resolution; and

Whereas the Commission by formal Notice of Hearing dated April 30, 1984, copies of which were circulated to all parties on record as being concerned with the application, set the matter down for a review hearing at its offices on Thursday, May 17, 1984; and

Whereas at the review hearing the applicant was represented by its President and sole shareholder, Mr. Ken McIntosh, who was assisted by his son, Mr. Wayne McIntosh, and the objectors on record who had participated at the appeal hearing on March 22, 1984; Reimer Express Lines Ltd. and TNT Canada Inc., were represented respectively by company officials, Messrs. Roy Burmaster and Martin Askew; and

Whereas following a full and frank exchange of views, those present agreed to withdraw their appeals in this matter and mutually and freely consented to the granting to the applicant of additional licence authority felt by the Commission to be justified and fully supported, in the following terms:

Commodities to Be Carried:	*For Whom to Be Carrried:*	*Area, Route or Territory:*
1. Construction machinery and related accessorial parts other than retail store merchandise; plastic pipe; roofing materials; lumber dressed and rough; scrap-metals. (Charter trips)	For one individual or company only at any one time.	From points in Licence Districts 9A, 14, 14A and 15 delivered to the B.C./U.S.A. border or vice versa.
2. Plastic pipe; shakes and shingles; lumber dressed or rough. (Charter trips)	For one individual or company only at any one time.	From points in Licence Districts 9A, 14, 14A and 15 delivered to the B.C./Alberta border or vice versa.

Accordingly the Motor Carrier Commission orders that its previous decision in this matter, be and it is hereby rescinded.

It is further ordered that the applicant, Pacific Northwest Carriers Inc., be and it is hereby granted the additional new two clauses of licence authority cited in the previous paragraph.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

42-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 2557/83 of Capital Freightways Ltd., of Victoria, B.C.

Before: GERARD M. MORRIS, *Acting Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 28th day of May 1984.

ORDER

The application of Capital Freightways Ltd. (the applicant), published as No. 2557/83, came on for hearing before the Motor Carrier Commission in Burnaby, B.C., on April 18, 1984. Five full days of hearing were held between that date and May 4, 1984, when the proceedings were concluded.

The applicant was represented by Counsel, Mr. R. W. Macdonald. The qualified objectors, Public Freightways Ltd. (Public), and Canadian Pacific Express and Transport Ltd. (CPX), were represented by company officials, Messrs. I. Froese and B. Smith, respectively, and Sidney Freight Ltd. (Sidney), was represented by Counsel, Mr. J. M. Hutchison.

The applicant sought by this application to extend both a scheduled and non-scheduled general freight service to Northern Vancouver Island points on an LTL basis, as well as to generally expand the service it provided in certain terminal areas.

Counsel for the applicant called 12 witnesses, including the Mayor of Nanaimo, Mr. Frank J. Ney; Mr. Thomas Der, president and principal shareholder of the company; and 10 shippers, who generally spoke very highly of the applicant and indicated their support for the extension of the authority sought.

Mr. Der testified at length as to the extreme difficulties being experienced by his firm in competing with those carriers licensed to serve all of Vancouver Island, and especially CPX which, he said, had taken a significant number of accounts from him by reducing rates or by offering what he referred to as "national rates".

Certain exhibits were entered on behalf of the applicant in support of Mr. Der's testimony with respect to those accounts his firm had lost recently because of competitive rates and discounts offered by certain of the objectors present at the hearing.

During the course of the proceedings, the applicant also filed as exhibits, three volumes containing 308 documents identified as Letters of Commendation, and two volumes containing approximately 160 completed Certificates of Support.

Objectors Public and CPX, which hold extensive licence authority on Vancouver Island, including the area around Nanaimo and further north, opposed the application vigorously, generally saying that there was already enough service, economic conditions were bad, and there was no concrete evidence of public need demonstrated by the applicant. The objector, Sidney, took the position that any decision on this particular application should be deferred until such time as the Cabinet had heard and adjudicated upon an appeal filed by Sidney from a Commission decision only partially granting Sidney's application to extend a freight service to the northern parts of Vancouver Island.

The Commission, in considering all of the evidence before it, including the testimony, evidence and argument offered at the hearing, makes the following findings of fact:

1. The applicant and the qualified objectors are, each one of them, competent motor carriers providing an excellent service to the public within the areas covered by their authority;
2. The applicant has been extremely successful in serving the Victoria/Vancouver lane of traffic, and has grown to be a major supplier of truck transportation on that lane despite the competition offered by two of the larger qualified objectors;
3. The applicant has not shown a loss position on its operations even during the current economic downturn;
4. Public and CPX have served the Island for many years providing regular scheduled service in areas not generally sought after by other LTL carriers;
5. There is extensive rate competition for Vancouver Island business and carriers able to offer a "national", "regional", or "area" rate based on the number of points served do enjoy an advantage over those not in a position to offer the same scope of service;
6. The rate competition being experienced has resulted in longstanding customers being lost by carriers to other carriers;
7. The economic downturn on Vancouver Island has significantly reduced the revenue of a number of motor carriers, including some of those party to these proceedings.

In adjudicating the matters before it, the Commission has concluded that it would not be in the public interest to grant the entire application as filed. It has also concluded that any authority granted to the applicant may well have an adverse effect on the LTL carriers currently serving Vancouver Island on a scheduled basis. Despite this, the Commission believes that the case presented by the applicant was so strong that it does merit the granting of some authority and that granting that authority will not so adversely affect other carriers so as to imperil the provision of adequate service to the public on Vancouver Island.

Accordingly, the Commission orders that Part 1 of the application of Capital Freightways Ltd., published as No. 2557/83, be and it is hereby *refused* as filed, but the said applicant be and it is hereby granted the additional authority required to operate a Class II scheduled service as applied for between the following termini:

From (Terminus):	*To (Terminus):*	*Particulars of Route:*
1. Victoria	Vancouver	Any convenient routing
2. Vancouver	Nanaimo	Any convenient routing
3. Vancouver	Duncan	Any convenient routing
4. Victoria	Duncan/Nanaimo	Any convenient routing

Limitations and Restrictions:

(a) No local service involving pick-up and delivery (from consignor to consignee) shall be rendered within any "Terminus" area as defined.

(b) Routes described herein may consist of one or more conjoined routes. Operation over a segment or segments thereof is authorized providing such operation is in accordance with the filed time schedule or otherwise in accordance with the authority contained in other sections of these Conditions of Licence.

Terminus Area Definitions:

1. Terminus Victoria shall include the City of Victoria and territory situated within 45 road miles (72.418 km) from its boundaries.
2. Terminus Vancouver shall comprise the City of Vancouver and Licence Districts 14, 14A and 15.

3. Terminus Duncan shall include the City of Duncan and territory situated within 12 road miles (19.311 km) from its boundaries.

4. Terminus Nanaimo shall include the City of Nanaimo and territory situated within 35 road miles (56.325 km) from its boundaries.

It is further ordered that Part II of the application be and it is hereby granted in the following terms:

Kind of Freight to Be Transported:	*For Whom to Be Transported:*	*Area, District or Territory That May Be Served:*
1. General freight.	Any individual or company.	Non-scheduled service over all routes described in Part 1 hereof, subject to full observance of restrictions and limitations pertaining thereto. Service to all intermediate points on request.
2. General freight being consolidated or distributed in conjunction with scheduled service authorized in Part 1 hereof.	Any individual or company.	Within any terminus area as defined in Part 1 hereof.

This non-scheduled authority (Clauses 1 and 2 of Part 2) is subject to the maintenance of the scheduled service referred to in Part 1.

Standard Interchange of Trailer Authority

It is further ordered that the security deposits filed by the applicant and by the qualified objectors be refunded.

Approved by:
GERARD M. MORRIS
Acting Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

54-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 1551/83 of Canadian Pacific Express & Transport Ltd., of Vancouver, B.C.

Before: GERARD M. MORRIS, *Chairman*, and IAN W. CRAIG, *Commissioner*.
Dated the 20th day of July 1984.

ORDER

The application of C. P. Express and Transport Ltd. (the applicant), published as No. 1551/83, for alteration to its existing licence authority so it could provide a complete general freight service from consignor to consignee between points located within Licence Districts Nos. 14, 14A and 15 (the Lower Mainland/Fraser Valley) came before the Motor Carrier Commission for hearing on Tuesday, June 12, 1984. The proceeding concluded on Monday, June 25, 1984 after five days of hearing.

The applicant was represented jointly by Counsel, Messrs. R. W. Macdonald and B. Dong. The qualified objector, Overland Freight Lines Ltd. (Overland), was represented jointly by Counsel, Messrs. L. R. Peterson, Q.C., and G. Fulton. Qualified objectors, Dolphin Delivery Ltd. and Western Carriers Ltd., were represented respectively by company officials, Messrs. M. Peter and K. Schuurman. In addition, District Delivery Service Ltd., which was ruled by the Commission to be a qualified objector on the second day of the hearing was represented by a company official, Mr. W. Milne.

Two other carriers, Loomis Courier Service Ltd., and Argus Carriers Ltd. indicated their intention of participating in the hearing by filing $50 security deposits, but failed to comply fully with the requirements of Regulation 4.16 of the *Motor Carrier Act*, and were therefore ruled by the Commission not to be qualified objectors.

The Commission noted with interest, first, that while the Notice of Hearing concerning this rather extensive application was circulated widely to those licensed carriers the Commission felt might be affected by the application, only four qualified as objectors, and of these only one, Overland, had in actual fact, participated fully throughout the hearing, and presented a case in opposition.

The Commission noted, second, that the objectors present on the second day of the hearing stipulated that they did not question or challenge the applicant with respect to either its fitness as a carrier, or its willingness and/or ability to provide proper service.

The Commission noted, third, that Counsel for the applicant in presenting its case called two senior company officials who testified as to the company's operations, equipment, facilities, and very extensive growth in the small package delivery business. In addition, the applicant called twenty-seven shipper witnesses who strongly supported the application for the extension of licence authority. They generally expressed complete satisfaction with the services presently provided to them by the applicant, the very attractive rates charged, and the regular pick-up service provided.

The applicant indicated in its case that its Can-Par Division (small parcels) had designed its operations specifically to compete with the Post Office and with United Parcel Service, the latter being a recent entrant to the Canadian market not presently licensed to provide service in this Province. Most of the shippers called by the applicant appeared to stress the need for additional service for smaller parcels under seventy-five pounds in weight, which were not time sensitive in nature. There was some limited support for larger shipments from a number of witnesses, but Mr. D. Turner, of Kuehn Nagel Distributors Ltd., for instance, admitted under cross-examination that his shipments were time-sensitive and same-day service was important to him, a service which the applicant was not holding out as part of its Can-Par operations.

In addition, the applicant filed as exhibits at the hearing, four volumes containing responses to questionnaires on shipping needs and market surveys.

The qualified objectors present took the position that there are already numerous licensed carriers that could provide the service required for either small or large parcels and would appreciate the opportunity of providing service to the shippers who appeared at the hearing. This fact they said, together with the present poor state of the economy made it unnecessary to grant the application in question. They urged that the application be refused, or if granted, be restricted severely as to the weight of the parcels and/or shipments they could handle.

The Commission, in considering the evidence, testimony, and exhibits presented in connection with the matter before them, makes the following findings of fact:

1. There is no question that the applicant, which holds extensive licence authority, is a fit carrier and is willing and able to provide the service proposed to be offered.
2. The applicant through its Can-Par Division has put together an attractive, efficient, well regarded transportation service for smaller shipments or parcels.
3. The small parcel service proposed to be offered by the applicant is not at this time being provided in the same manner by any of the qualified objectors present at the hearing.
4. The type of service proposed to be offered by the applicant is strongly supported by those customers who have used Can-Par Division to and from the east, and services provided by other Divisions of C. P. Express and Transport Ltd., the applicant.
5. The applicant has demonstrated public need for additional service for small parcels of the type not carried by what is commonly referred to as courier service, i.e. time-sensitive materials.
6. The applicant did not demonstrate a public need for an extension of authority to transport larger shipments within the areas sought to be served.

Accordingly the Commission has decided that the application ought to be granted, but with the addition thereto of a parcel weight restriction.

The Motor Carrier Commission orders therefore, that the application of C. P. Express and Transport Ltd., published as No. 1551/83, be and it is hereby granted as applied for with the addition thereto with respect to service provided within the Vancouver Terminus of a weight limit of seventy-five pounds for each package being transported.

It is further ordered that the security deposits filed by the applicant and by the objectors be refunded.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

61-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of All Motor Carrier Licence Authority Issued to Conmac Stages Ltd., of Sidney, B.C.

Before: GERARD M. MORRIS, *Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 13th day of August 1984.

ORDER

The hearing, set down pursuant to section 9 of the *Motor Carrier Act*, to examine the operations of Conmac Stages Ltd., and determine whether all of the licences issued to that company (hereinafter referred to as Conmac) should be cancelled for non-compliance with the provisions of the *Motor Carrier Act* and Regulations, came before the Motor Carrier Commission on the 24th day of July 1984, and was completed after five days of evidence and argument on the 30th day of July 1984.

Mr. Gary Kinar and Mr. Rick Philps appeared as Counsel for Conmac, and Mr. Tobin Robbins acted as Counsel for the Motor Carrier Commission.

Conmac, since June 1980, and previously since April 1979, under the name of Conmac Enterprises Ltd., has been operating charter buses and sightseeing buses over prescribed routes on southern Vancouver Island. This service was expanded in February, 1983, to include charter trips from Vancouver Island to any point in B.C. or boundaries thereof, and charter trips from Vancouver International Airport and points within seven miles of City Hall, to any point on Vancouver Island.

In February, 1983, the authority was expanded to permit Conmac to operate limited passenger vehicles charging individual fares, transporting skiers from Victoria to Mount Washington or Forbidden Plateau, subject to certain restrictions.

On January 30, 1984, Conmac Bus No. 6607 was involved in a one-vehicle accident while transporting skiers between Victoria and Mount Washington. This accident occurred on an industrial road, which road provides the access to Mount Washington. It resulted in the deaths of two passengers on the bus, and injuries to some 59 other passengers on the bus.

Following the completion of a Coroner's Inquest into the deaths of the two passengers, and an investigation of complaints which alleged that Conmac was operating in violation of the *Motor Carrier Act* and Regulations, the Commission, by formal Notice of Hearing dated June 6, 1984, scheduled a hearing for July 18, 1984, which hearing was adjourned to July 24, 1984, at the request of Conmac.

At the hearing, Counsel for the Commission filed as Exhibit No. 3 a Letter of Particulars dated June 6, 1984, which specified nine alleged contraventions of the *Motor Carrier Act* and Regulations. The Letter of Particulars had been mailed to Conmac prior to the hearing.

At the commencement of the second day of the hearing, the Commission placed on the record a statement to the effect that although the hearing was being characterized as a "Show Cause hearing as to why the licences should not be cancelled", the onus rested upon Commission Counsel to lead evidence and establish the particulars alleged, not upon Conmac Stages Ltd. to disprove the particulars.

Counsel for the Commission called nine witnesses to give testimony at the hearing, all of whom were cross examined by Counsel for Conmac. The nine witnesses were called over a period of four days and gave evidence, including the following:

The three teachers called as witnesses, Mrs. Helen White, and Messrs. Norrie Spencer and Michael Stack, in general dealt with the manner in which the arrangements for the January 30, 1984, trip to Mount Washington were made, the way the trip was paid for, the nature of the receipt issued to Conmac, their experiences during the course of the trip, supervision of the students, and the fact that there was no prior knowledge that some students would be required to stand for part of the journey. Mr. Stack, a passenger on the crash bus, described the events of the accident in detail.

The witness, Corporal Allen Segstro of the RCMP, a specialist in accident reconstruction work, was active in the investigation of the accident for the RCMP. He presented photographs of the terrain around the accident, the crash scene itself, and discussed the relevance of certain of the photographs to the issues at hand. He also noted that there was an improper mix of radial and bias-ply tires on the bus, that the speedometer cable was detached, and that the bus bore a sign reading "Charter".

The testimony of Mr. A. R. Fitch, Superintendent of Motor Carriers, embraced fare and tariff requirements under the *Motor Carrier Act* and Regulations, the carriage of standing passengers, operation of buses not licensed by the Motor Carrier Commission, and charter trips. He stated that two of the buses operating on the fateful Mount Washington trip were not properly licensed under the *Motor Carrier Act*, and he expressed the positive view that the accident to Bus No. 6607 occurred when the bus was being operated as a charter vehicle.

Mr. D. A. Chaplin, a Motor Vehicle Area Inspector, testified as to the details of various inspections performed on Conmac vehicles by himself and other inspectors of the Motor Vehicle Branch. He also testified

concerning his telephone conversation with Mr. Conrod who had asked that certain recent inspection reports not be submitted until re-inspections had been carried out. This conversation, Mr. Chaplin said, had been reported by him to his superior.

Mr. L. B. Sutherland, Regional Manager for Greyhound Lines of Canada Ltd., which operates approximately 300 motor coaches in Canada, testified that his company does not permit standees on charter trips. He provided documentation that other companies have similar prohibitions against carrying standing passengers in the same circumstances. In addition, his testimony indicated that although his company is licensed to carry standees on scheduled runs, they go to great lengths and substantial expense to avoid such carriage by hiring extra buses or taxis to carry surplus passengers, who otherwise would not have seats. His testimony also dealt with his company's stringent Maintenance and Equipment Program.

The evidence provided by Mr. A. C. Wright, a recognized expert on the maintenance and operation of air brake systems, was comprehensive, positive and authoritative. His written report (Exhibit No. 38) revealed the thoroughness with which he had examined the braking system of the crash bus No. 6607, which had led him to conclude that the cause of the accident on January 30, 1984, was poor brake adjustment. In addition, he stated that the maintenance of the air brake system on that particular bus and installation of replacement brake parts was inadequate.

Mr. K. M. Griffith, the chief mechanic for Conmac at the time of the accident, testified at some length. His evidence dealt with his experience as a mechanic in the automotive and heavy duty equipment repair business, and his qualifications which are based primarily on practical experience. He outlined his responsibilities under Conmac's maintenance program, and included the fact that all repairs and servicing under that program were not fully recorded.

In one particular his evidence covered the manner in which he had installed a front brake limiting valve and plastic air hose and fittings, and the fact that he did not specifically refer to or follow manufacturers' recommendations.

Mr. Griffiths indicated that, in addition to being chief mechanic, he also acted as a driver on some occasions. His driving responsibilities had included trips to Mount Washington, and in Conmac's service from the ferry terminal at Swartz Bay to Sandown Race Track. He testified that he had carried standing passengers from Swartz Bay to the race track, and also on other occasions when he had work orders specifying the transportation of standees on trips to Mount Washington.

He related his experience as the driver of Bus No. 6606 during an experiment prior to the inquest, in which that vehicle's brakes were adjusted to simulate in an actual road test the conditions present on the crash bus on January 30, 1984. He stated that the test had been discontinued when the brakes began to fade near the scene of the accident.

The testimony of Mr. Gerald Conrod, president of the respondent company, who was called by Mr. Kinar, was lengthy, and covered many matters. He discussed Conmac's service and maintenance program, and expressed his belief that his staff made sure that the company's vehicles met safety requirements. In response to direct and cross examination, Mr. Conrod gave evidence regarding the application of tariffs, carriage of standing passengers, and charter trips, and responded to allegations of violations under the *Motor Carrier Act* and Regulations.

The Commission, having considered all of the evidence before it, makes the following Findings of Fact:

1. That on January 30, 1984, the service provided by Conmac transporting students of Claremont High School to Mount Washington was a charter trip;
2. That in the course of the charter trip on January 30, 1984, Conmac operated a vehicle carrying a greater number of passengers than the maximum number authorized by its motor carrier licence;
3. That on January 30, 1984, and on other occasions on trips to Mount Washington, and also in the operation of its service to Sandown Race Track, Conmac carried standing passengers;
4. That on January 30, 1984, Conmac operated vehicles which were unsafe, including the vehicle known as Bus No. 6607, the brakes of which were grossly out of adjustment;
5. That on January 30, 1984, Conmac had buses operating to and on Mount Washington with deficiencies sufficiently serious to cause those buses to be grounded by Motor Vehicle Inspectors as a result of an inspection on the day following the accident;
6. That there were serious defects in the supervision and record keeping of the company's vehicle maintenance program;
7. That Conmac showed disregard for public safety and regulations by arranging a test designed to simulate the circumstances and condition of the bus involved in the fatal accident without ensuring that the road on which the test was to be conducted was closed to other traffic, and without authority to move the vehicle used in the test;
8. That on January 30, 1984, Conmac operated two buses with passengers which were not licensed by the Motor Carrier Commission;
9. That Conmac operated a bus with radial and bias-ply tires mixed in an improper manner;
10. That Conmac operated a bus on January 30, 1984, without the proper markings required by the Regulations under the *Motor Carrier Act*, despite the fact that this deficiency had been called to its attention by an inspector in November 1983;

11. That Conmac on a number of occasions offered or charged for services rates not in accordance with the tariff filed with and authorized by the Motor Carrier Commission;
12. That for some time Conmac operated vehicles with certain known deficiencies, specifically, inoperative speedometers;
13. That Conmac operated motor vehicles which constituted a peril to public safety, and also over a period of time continued to operate in a manner which grossly violated the *Motor Carrier Act* and Regulations in many respects.

Motor carriers licensed by the Motor Carrier Commission, including Conmac, must accept certain very serious duties and responsibilities, both to the public and to the Commission. One significant responsibility arises from Regulation 6.33 (Maintenance of Vehicles), which reads as follows:

> It shall be the duty of every licensee to maintain his licensed vehicle or vehicles in a safe operating condition and, for this purpose, to arrange for inspection of same by a competent inspector or mechanic at sufficiently frequent intervals.

Conmac and all other licensed carriers must pay particular attention to this very specific responsibility which places the onus directly on them to keep their vehicles in safe operating condition. There is no doubt that Conmac failed to do so.

Conmac and all other licensed carriers must operate within the scope of their licence authority and Conditions of Licence. Non-compliance may result in cancellation of their licence pursuant to section 9 (1) (2) (a) of the *Motor Carrier Act*, under which section this hearing was convened. As noted in the Findings of Fact, Conmac has failed to comply with the requirements of the *Motor Carrier Act* and Regulations in many ways.

Numerous and serious contraventions by Conmac of various sections of the *Motor Carrier Act* and Regulations are noted and appear in the Findings of Fact. Such widespread and serious omissions on the part of a carrier cannot be tolerated, embracing as they do a lack of responsibility and failure to meet the explicit obligation conferred on a carrier by its licence authority.

Public safety must, of course, be a paramount consideration for all motor carriers, particularly those engaged in the transportation of passengers. The Commission will use all means at its ready disposal, including severe penalties, to ensure that motor carriers are aware of this responsibility to the public.

After carefully considering all of the evidence placed before it, and after carefully weighing the Findings of Fact arising from that evidence, the Commission has concluded that the public interest demands that Conmac be dealt with extremely severely. The Commission believes that it must impose the ultimate penalty in this particular case, and cancel all of the licence authority issued to Conmac.

Accordingly, the Motor Carrier Commission hereby orders that all of the licence authority issued to and in the name of Conmac Stages Ltd. be and it is hereby cancelled, and any rights or privileges conferred on Conmac by that licence authority be and they are hereby extinguished.

It is further ordered that Conmac Stages Ltd. be and it is hereby assessed costs in the sum of $12,500.00 towards the costs of these proceedings, which must be paid to the Commission forthwith.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

65-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Applications: (A) W. E. Walden Transport Ltd., published as No. 275/84; (B) Lang Cattle Co. Ltd., published as No. 276/84; and (C) Lloyd Hutton Transport Ltd., published as No. 277/84.

Before: GERARD M. MORRIS, *Chairman*.

Dated the 5th day of September 1984.

ORDER

The applications of W. E. Walden Transport Ltd., Lang Cattle Co. Ltd., and Lloyd Hutton Transport Ltd., (hereinafter referred to as Walden, Lang and Hutton), published respectively as Nos. 275/84, 276/84 and 277/84, came on for a joint hearing before the Motor Carrier Commission of British Columbia, sitting concurrently in a panel with the appropriate regulatory boards from the provinces of Alberta, Saskatchewan, Manitoba and Ontario, on August 24, 1984, in Toronto, Ontario.

The applicants each sought identical authority from the Commission to transport general freight, originating in the Province of Ontario, for any individual or company from the B.C./Alberta border delivered to any point in British Columbia, and return with rejected, damaged, or returned goods. The movement of this freight was to be restricted to the use of trailers or semi-trailers designed for the transportation of livestock. Only one applicant, Walden, presently holds licence authority in this province. That authority includes the right to transport livestock from any point therein to the B.C./Alberta border destined to the Province of Ontario, charter trips only.

The applicants were represented by co-counsel Mrs. Miriam D. Isenberg, Q.C., and Messrs. Joseph W. Kanuka, Q.C., and Randolph B. McNicol. The objector, Motorways (1980) Ltd., was represented by a company official, Mr. J. C. Muckle, and the objector, Hyndman Transport (1972) Ltd., was represented by Counsel, Mr. A. W. Basile. The objectors, Alltrans Express, a division of TNT Canada Inc., Direct Transportation System Ltd., Midland Superior Express Ltd., Reimer Express Lines Ltd., CP Express and Transport Ltd., and Kingsway Freightlines Ltd., were all represented by Counsel, Mr. D. Saul.

Mr. Kanuka's opening address included the following points:

(1) There would be a commonality of evidence tending to support all three applications;

(2) The applicants, all highly experienced cattle haulers, were seeking increased authority to move freight other than cattle from Ontario to the West to increase their efficiency and reduce costs by balancing their operations.

During the course of the proceedings, protracted negotiations took place between Counsel for the applicants and Counsel and/or representatives of the various objectors. These negotiations resulted in several amendments being discussed, one of which, put forward on the second day of the hearing, was formally approved.

By this amendment the applications were divided into two separate clauses: the first clause contained an extensive list of commodities to be transported for any one person or individual at any one time, from Ontario to destinations in the West; the second clause was to transport general freight for any of a list of 13 named shippers under contract. Both clauses were to bear restrictions confining carriage to charter trips using livestock trailers only, and further, that such carriage would follow, in the case of Walden and Hutton, or be preceded in the case of Lang, by the movement of cattle to the East. This amendment was formally approved by the Commission after withdrawal of a previous amendment. This final amendment generally answered the concerns of the objectors who, after formal approval of the amendment by the panel, withdrew their objections on the understanding that the Commission and Boards would not grant greater licence authority than that applied for in amended form, including the specified restrictions. The objectors withdrew from and did not participate further in the hearing.

The panel, through its Chairman, announced that while the amendment was being accepted, the individual panel members would require a firm indication of public need and were not prepared to grant the applications merely because the opposition had been withdrawn. Counsel for the applicants were informed that the panel would expect *viva voce* evidence to be introduced at the hearing in support of the second clause seeking to transport general freight for the 13 named shippers. The Chairman also stated that in view of the circumstances, the individual Commissions and Boards represented on the panel would consider, after the hearing, any documentary evidence submitted by the applicants in support of Clause No. 1 of the amended application.

Counsel for the applicants advised that they were prepared to proceed in the manner suggested and on this basis the hearing continued.

At the commencement of the fourth day of hearing, the Chairman confirmed the previous ruling unanimously agreed to by all panel members that the shippers named in Clause 2 of the amended application would be stricken unless supported by *viva voce* evidence, and advised Counsel for the applicants that any affidavits in support of Clause 1 of the application, in order to be considered, must be filed with each individual Commission or Board prior to September 30, 1984.

During the course of the hearing, which was concluded after five days on August 24, 1984, the panel heard a total of five shipper witnesses, who generally supported Part 1 of the application, nine witnesses in support of the shippers specifically named in Part 2 of the application, and three corporate witnesses. The shipper witnesses outlined particular needs and the ability of the applicants to serve those needs if granted the authority they were seeking. A number of them indicated that the lower rates offered by the cattle haulers would enable them to divert freight from rail movements advantageously. Others indicated that transport by motor vehicle in the manner proposed by the applications would enable them to meet competition in the West from off-shore and U.S.A. suppliers.

The three corporate witnesses representing the applicants gave similar testimony. They emphasized the need to provide continuing and improved service to shippers of cattle because of the gradual decline in service by the railroads, the essentiality of balanced freight movements because of the increases which had occurred in all costs, and the need to provide a realistic rate for shippers of cattle.

The Commission, in considering all of the evidence before it, including the fact that the objectors had withdrawn their opposition, concluded that a case had been made in support of Clause 2 of the application, as amended.

The Motor Carrier Commission orders, therefore, that Clause 2 of the application, as amended, be and it is hereby granted, subject to compliance with the usual pre-licensing requirements, in the following terms:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
General freight, originating in the Province of Ontario (charter trips).	D. H. Howden & Co. Ltd. GSW Inc. Cambridge Cavas Centre Ltd. Cyanamid Canada Ltd. Hayes Dana Inc. Sternson Ltd. Superior Propane Ltd. General Tire Canada Ltd. Breadner Trailer Sales (1979) Ltd.	From the B.C./Alberta border delivered to any point in British Columbia, and return with rejected, damaged or returned goods.

Restrictions:

1. Restricted to the use of trailers and semi-trailers specifically designed for the transportation of livestock.
2. The western transportation of general freight made pursuant to this clause shall be followed, in the case of Walden and Hutton, and preceded in the case of Lang, by the movement on that same vehicle of livestock destined to points in the Province of Ontario.

It is further ordered that the three applicants, Walden, Lang and Hutton, be and they are hereby *each* assessed the amount of $1,000 costs to help defray the costs of these proceedings, which must be transmitted to the Commission forthwith.

It is further ordered that the security deposits of $50 filed by each of the applicants may be set off against the costs assessed in the preceding paragraph, and the security deposits filed by the objectors on record be refunded.

The balance of the amended applications will be adjudicated, and a supplementary Order and Decision issued in due course following receipt of the affidavits of the applicants relating to Clause 1 of the applications, which it is noted, must be in the hands of the Commission prior to September 30, 1984.

Approved by:
GERARD M. MORRIS
Chairman

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

68-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of a Show Cause Hearing Pursuant to Section 9 of the *Motor Carrier Act*; and in the Matter of Squamish Taxi (1976) Ltd., Respondent.

Before: GERARD M. MORRIS, *Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 1st day of October 1984.

ORDER

The hearing, pursuant to section 9 of the *Motor Carrier Act*, convened expressly to look into the operation of and determine whether all of the licences issued to and in the name of Squamish Taxi (1976) Ltd. (hereinafter referred to as the respondent), should be cancelled, came before the Motor Carrier Commission on August 29, 1984, in Burnaby, B.C.

Mr. Malkit S. Parhar, president of the respondent company, acted on its behalf, together with Mr. Bhag Singh Dhanoa, its secretary and manager. Mr. Paul Joyce appeared as Counsel for a number of owner-operators who drove taxis for the respondent. Mr. A. W. Basile acted as Commission Counsel.

Following a lengthy investigation, the formal Notice of Hearing was issued on July 20, 1984, in accordance with the requirements of section 43 (2) of the *Motor Carrier Act*, setting the hearing down for August 29, 1984. Subsequently, a Letter of Particulars containing 16 allegations of contraventions of the *Motor Carrier Act* and Regulations was mailed to the respondent on July 28, 1984.

At the commencement of the proceedings, Chairman G. M. Morris, noting that the respondent was not represented by legal counsel, advised its spokesmen carefully and at length of the seriousness of the allegations to be dealt with at the hearing, and the possible consequences. He informed them of the procedures that would be followed, and gave assurance that the Chair would see that all matters were fully understood by those representing the respondent, and that they would have the right to ask questions of any witness represented.

Following the testimony and examination of four witnesses called by Mr. Basile, the Commission announced that a *prima facie* case had been proven.

The seriousness of the case against the respondent was again stressed by the Commission at this point, and the respondent's representatives were advised that, following the hearing, the Commission could decide to cancel all of the licences issued to the respondent. Mr. Parhar and Mr. Dhanoa were then invited to respond to the case presented against the respondent.

The respondent, through its representatives at the hearing, presented seven witnesses, including Messrs. Parhar and Dhanoa, and also recalled a taxi owner-operator who had testified at the request of Mr. Basile. At the conclusion of the hearing, both Mr. Parhar and Mr. Dhanoa made representations to Commission members regarding the matters before them.

After considering carefully all of the information before it, including the testimony given at the hearing, the Commission makes the following Findings of Fact:

1. That the respondent provided only a limited, and at times, inadequate service to the residents of the Squamish area;
2. That the respondent "rented", "leased", or "sold" licence authorities to other individuals or companies, who operated almost if not entirely from the Vancouver International Airport to points other than Squamish, B.C.;
3. That the five individuals or companies ostensibly operating as part of Squamish Taxi (1976) Ltd.'s fleet did, in fact, operate as individual businesses without supervision, dispatch or record maintenance and without bookkeeping services being provided, or control of any kind being exercised by Squamish Taxi (1976) Ltd.;
4. That not until recently, at the request of Squamish Taxi (1976) Ltd., have the operators, using the licence authorities of that company to provide airport service, supplied a vehicle on a rotation basis for service at Squamish, B.C., on weekends;
5. That over a long period of time, the respondent has been guilty of many improprieties, including the operation of unsafe vehicles, inadequate control and supervision of drivers, failure to provide the Motor Carrier Commission with documents requested, and failure to make legal deductions from the income of employees for unemployment insurance, Canada Pension Plan, and income tax;
6. That on a number of occasions, the secretary of the company, who is also the manager, has apparently been guilty of intemperate behaviour which has been the subject of complaints and police investigation or response;
7. That testimony given by the president and by the secretary of the company, each of whom by virtue of share control are its owners, conflicted in many instances, and on a number of occasions reflected animosity and a tendency to blame each other for certain of the shortcomings in the respondent's operations;
8. That in one particular case, the testimony given under oath by Mr. Parhar and Mr. Dhanoa, the president and the secretary of the respondent company, was completely contradictory, and brought the credibility of the witnesses into question in that and other instances.

The Commission has concluded that it would not be in the public interest to permit the respondent company to continue to operate.

Accordingly, the Motor Carrier Commission orders that all of the licences issued by it to and in the name of Squamish Taxi (1976) Ltd., and any rights or privileges conveyed thereby be and they are hereby cancelled.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

70-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 114A/84 of Futura Transport (1980) Ltd.

Before: GERARD M. MORRIS, *Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 1st day of October 1984.

ORDER

The application of Futura Transport (1980) Ltd. (the applicant), published as No. 114A/84, for amendment to its existing Conditions of Licence, came before the Motor Carrier Commission for hearing on September 19, 1984, in Victoria, B.C.

The applicant was represented by Counsel, Mr. L. T. Cullen. The objectors: Capital Freightways Ltd., Public Freightways Ltd., Sidney Freight Ltd., and CP Express and Transport Ltd., were represented by Counsel, Mr. R. W. Macdonald. Valley Reefer Service Ltd., which had qualified as an objector, withdrew its opposition when the application was amended at the hearing to add thereto a provision that "foodstuffs requiring refrigeration" would not be transported.

The applicant sought by this application to amend its existing Clause No. 4, general freight (excluding household goods), charter trips, so as to permit it to transport less than truckload freight (but not less than 5,000 pounds) in the area it is presently licensed to serve, which includes the Victoria-Vancouver lane, and vice versa.

Only two witnesses were presented by the applicant, one of whom, Mr. Ian Wallace, was the vice-president of a corporately related firm, Ocean Express Ltd., and the other, a shipper supporter, Mr. G. H. Hartwig, an official of Wigmar Construction (B.C.) Ltd., who represented that company and several other related firms. In addition, some forty letters of support were filed.

The objectors called four witnesses, all being company officials, who told of decreased volumes, idle equipment, and their willingness and readiness to transport more goods to and from Vancouver Island, either on a truckload or less than truckload basis. A number of exhibits were also filed by the objectors which generally tended to support the testimony given.

The objectors suggested during the course of the hearing that the applicant had acted improperly in providing transportation for Citation Freight Ltd., but the Commission does not propose to deal with that complaint in this Order and will render its findings solely on the merits of the application.

The Commission, in considering all of the information before it, including what was learned at the public hearing, makes the following Findings of Fact:

1. The applicant has charged rates that were not on file with, nor approved by, the Motor Carrier Commission, and in this respect has contravened the Regulations under the *Motor Carrier Act;*
2. The applicant has quoted less than truckload (LTL) rates when it is not authorized to carry LTL traffic;
3. The applicant on a former occasion applied for LTL authority which was denied by the Commission, and that decision was upheld by the Lieutenant Governor in Council on appeal;
4. Despite this failure on a previous application and on appeal, the applicant failed to provide meaningful letters of support which indicated volumes of the freight to be tendered, and the specific need for customer services;
5. The applicant failed also to provide shipper witnesses who could testify as to their needs and be examined by the Commission and by the objectors with respect to their evidence.

After carefully weighing all of the information available to it, the Commission has concluded that the applicant has failed completely to prove public need at the present time for the licence authority it is seeking.

Accordingly, the Motor Carrier Commission orders that the application of Futura Transport (1980) Ltd., published as No. 114A/84, be and it is hereby *refused*.

It is further ordered that the security deposits filed by the applicant and by the qualified objectors be refunded.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

73-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 721/84 of Sokil Express Lines Ltd.

Before: GERARD M. MORRIS, *Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 10th day of October 1984.

ORDER

The application of Sokil Express Lines Ltd. (the applicant), published as No. 721/84, came before the Motor Carrier Commission for hearing in Burnaby, B.C., on September 10, 1984.

The applicant was represented by Counsel, Mr. S. Dev Dley. Qualified objectors, CP Express and Transport Ltd., Byers Transport Ltd., Reimer Express Lines Ltd., and Transport Route Canada Ltd.

(formerly Midland Superior Express Ltd.), were represented by Counsel, Mr. Tobin Robbins. Qualified objectors, B.C. Railway, Van-Kam Freightways Ltd., West Rim Express Lines Ltd., and Motorways (1980) Ltd., were represented by company officials, respectively, Messrs. R. Dawson, A. W. Vincenzi, Mrs. A. K. Stolar, and Mr. H. Bull, while United Terminals Ltd. and Canadian Freightways Ltd., corporately-related firms, were represented by a company official, Mr. J. E. Keizer.

The applicant is a medium-sized, well operated carrier based in Alberta, with extensive licence authority both in that province and in British Columbia. The Conditions of Licence attached to the B.C. Licence authority of the applicant contain a clause which, because of its wording, has been subject to much controversy, misunderstanding, and litigation.

The first part of that clause, being Clause 7A, authorizes the applicant to transport a number of categories of commodities, including one described as "industrial supplies" within and from specified areas in Licence District 16 and adjoining Licence District 7, to any point in B.C. or vice versa.

The second part of that particular clause, 7B, authorizes the transportation of those same commodities from the common areas described in Clause 7A to the B.C./Alberta border, or vice versa.

The applicant has taken the position that it can transport an almost unlimited range of commodities which it feels comes under the terms "industrial supplies". Mr. Sokil, the president of the applicant firm, while on the stand, expressed the opinion that almost any manufactured goods or products are "industrial supplies." He referred, as well, to a number of court cases which he felt vindicated his position, and stated quite freely, under oath, that his firm seldom refuses any goods offered for transportation. Thus it appears that for some years the applicant has in actual fact been operating as a general freight carrier.

Over the years these views and the actions of Mr. Sokil in this respect have resulted in a number of complaints being filed with the Commission regarding the applicant's operations.

The Commission therefore decided that this issue must be resolved. Consequently, after the composition of the Commission changed in February 1984, the Chairman wrote to the applicant indicating that it was interpreting its Conditions of Licence in a way not contemplated by the Commission, and suggested that a new application be filed, setting out the authority sought, which matter would be dealt with in the established manner. Subsequently the application presently before the Commission for adjudication was filed on May 7, 1984, and set down for hearing by Notice of Hearing dated June 24, 1984.

The applicant, by this application, sought to amend its existing Conditions of Licence by adding thereto three new clauses worded in the following manner:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
3.B) General freight.	Any individual or company.	From all boundaries thereof in the Province of B.C. in transit through B.C.
7.C) General freight.	Any individual or company.	From points in Licence Districts 7 and 1, transported to the B.C./Alberta border, or vice versa.
7.D) General freight.	Any individual or company.	From points in Licence Districts 7 and 1, delivered to any point in B.C., or vice versa.

In presenting its case, the applicant called five witnesses, four being shipper supporters, and the other, Mr. William Sokil. In addition a book containing some 98 letters of support was filed as an exhibit in these proceedings, as was a brief written history of the applicant company.

The objectors called nine witnesses, all being company officials, who generally took the position that the application should be refused and the applicant's licence authority clarified so as to prevent any misunderstanding in the future as to what it could haul and the area it could serve. In addition, there were suggestions, not supported by evidence, that the applicant had transported LTL shipments contrary to its licence authority.

The Commission, after carefully considering all of the evidence and testimony presented, both by the applicant and by the objectors at the hearing, and the circumstances which brought on the hearing, has concluded that some extension of its licence authority should be granted to Sokil but, at the same time, its present Conditions of Licence should be clarified and made crystal clear in meaning, both to industry and to the applicant, to prevent any further confusion.

Accordingly, the Motor Carrier Commision orders that:

1. The part of the application identified as 3B, being strictly a corridor operation through British Columbia from one border to any other border, be and it is hereby granted;
2. The parts of the application identified as 7C and 7D be and they are hereby refused;

3. The present Conditions of Licence of Sokil Express Lines Ltd. be and they are hereby revised so as to make them perfectly clear, by deleting existing Clauses 7A and 7B in their entirety, and substituting therefor the following:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
7. General freight (charter trips).	One individual or company only at any one time.	(a) Serving all points located within the area comprising only that portion of Licence District 16 situated south of an imaginary east/west line drawn 20 miles north of Lamming Mills, together with only that portion of Licence District 7 situated north of an imaginary east/west line drawn one mile south of Blue River. (b) From the area described above to any point in British Columbia, or vice versa. (c) From the area described above to the B.C./Alberta border, or vice versa.

4. The Superintendent of Motor Carriers is directed to monitor the operations of Sokil Express Lines Ltd. for one year from the date of this Order, and report his findings periodically to the Commission during the interim period.

The attention of Mr. Sokil, who, during the course of the hearing gave the impression that he was not really certain as to the precise meaning of the term "charter trips", is directed to Regulation 6.08 of the *Motor Carrier Act*, which reads as follows:

> *6.08 Charter Trips With Freight-vehicles Defined*
>
> Where the term "charter trip" is used in the licence of a freight-vehicle or in a tariff stating the charges for its operation, it shall mean the operation of the vehicle for the *sole and exclusive use* of one person. (Emphasis added.)

Licensed carriers who are restricted to charter trip operations (as is the applicant) are *not* authorized to transport freight for more than one individual or company at any one time, irrespective of the number of trailers attached to their tractor.

It is further ordered that the security deposits filed by the applicant and by the qualified objectors in these proceedings be refunded.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

75-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 818/84, of Domke Distributors Ltd.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner*, and GEORGE MUSSALLEM, *Commissioner*.

Dated the 12th day of October 1984.

ORDER

The application of Domke Distributors Ltd. (the applicant), published as No. 818/84, came before the Motor Carrier Commission for hearing in Burnaby, B.C. on September 25, 1984.

The applicant was represented by Counsel, Mr. Paul Sabatino, who was assisted by Counsel, Mr. Ian Aikenhead. The qualified objectors, Mountain Pacific Transport Ltd., United Terminals Ltd., Reimer

Express Lines Ltd., Canadian Freightways Ltd., Southern Interior Holdings Ltd., and West Rim Express Lines Ltd. were represented by company officials respectively, Messrs. E. Danylchuk, H. Jensen, W. Chernenko, R. Burmaster, D. L. Boehm, T. G. Bambrick, and Mrs. A. Stolar. Both Hunterline Trucking Ltd. and Arrow Transportation Systems Ltd., who qualified as objectors, failed to appear, and were not represented at the hearing. B.C. Rail, which also filed a $50 security deposit, appeared, but failed to qualify by not having filed a deposit and statement of objections within the time limits set out in Section 4.16 (1), and (2) of the Regulations, and specified also in the Notice of Hearing.

Mr. Sabatino called nine witnesses at the hearing, including eight shipper supporters, and one operating witness in the person of Mr. Benjamin Domke, President of the applicant company. No witnesses were called by the objectors present at the conclusion of the hearing, each of which decided instead to make a general statement and present argument.

The Commission, after considering carefully all of the information before it, including the testimony presented and the exhibits filed at the hearing, makes the following findings of fact:

1. The applicant is providing an efficient, responsive transportation service to the shipping public.
2. The testimony of shipper witnesses and a detailed analysis of letters of support during the hearing adduced demonstrable need for the licence authority being sought by the applicant.
3. Qualified objectors at the hearing called no supporting witnesses to substantiate their objections.
4. The qualified objectors failed in their cross-examination to demonstrate that granting the authority sought would either
   (a) impair the quality of transportation service to the shipping public, or
   (b) work such economic hardship on them that they would be forced to curtail or cease the transportation services they now provide and thus create a situation detrimental to the public interest.

The Commission has concluded therefore, that the application of Domke Distributors Ltd. ought to be in the main granted except for the term "industrial supplies", which appears to invite difficulties in definition, and that particular term will not be in this case included in the authority approved.

Accordingly, the Motor Carrier Commission orders that the applicant Domke Distributors Ltd., be and it is hereby granted the following additional licence authority:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
2. Lumber, plywood, veneer, particle board, fence posts, steel, scrap metal, sand in bags, paper products, building materials, supplies for mining camps, logging camps, construction sites and public institutions, wire rope and fittings, logging and construction parts excluding complete machines. (Charter trips)	One individual or company only at any one time.	(a) From points in Licence Districts 14, 14A and 15, delivered to points in Licence Districts 1, 2, 3, 4, 5, 6, 7, 8, 9 and 16, or vice versa. (b) From points in Licence Districts 1, 2, 3, 4, 5, 6, 7, 8, 9, 14, 14A, 15 and 16 transported to the B.C./U.S. border, or vice versa. (c) From points in Licence Districts 1, 2, 3, 4, 5, 6, 7, 8, 9, 14, 14A, 15 and 16 transported to the B.C./Alberta border, or vice versa.

The Commission further orders that the Clause 2 of the applicant's present Conditions of Licence, be and it is hereby deleted therefrom as applied for.

The Commission further orders that the security deposits filed by the applicant and by the qualified objectors be refunded, other than those of Hunterline Trucking Ltd., and Arrow Transportation Systems Ltd., which are forfeit because of the failure of the latter two objectors to appear or be represented at the hearing.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

84-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 1722A/83 of Canyon Distributors Ltd., of Calgary, Alberta.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner*, and George Mussallem, *Commissioner*.

Dated the 6th day of November 1984.

ORDER

The application of Canyon Distributors Ltd. (the applicant), published as No. 1722A/83 came on for hearing before the Motor Carrier Commission at the Motor Carrier Branch in Burnaby, B.C. on Monday, October 15, 1984.

The application was amended at the commencement of the hearing to read as follows:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
Foodstuffs.	For any individual or company.	From all points in the Province of Alberta to the Alberta/British Columbia boundary for furtherance to all points in British Columbia and vice versa.
Egg cartons (empty).	For any individual or company.	From the Alberta/British Columbia boundary transported to points in Licence Districts Nos. 14, 14A and 15.

Add to Clauses 1, 3, and 4 of present conditions of licence under Area, Route or Territory to be served, the following:

"and from the British Columbia/United States boundary in transit through British Columbia to the British Columbia/Alberta boundary for furtherance to points in the Province of Alberta and vice versa."

The applicant was represented by Counsel, Mr. Paul Joyce. The qualified objectors, Porter Trucking Ltd., Direct Transportation System Ltd., H. & R. Transport Ltd., Transport Route Canada Inc., Reimer Express Lines Ltd., T.N.T. Canada Inc., and Motorways (1980) Ltd., were represented by Counsel, Mr. Paul Sabatino, who was assisted by Counsel, Mr. I. Aikenhead. Qualified objector, Clark Reefer Lines Ltd., was represented by Counsel, Mr. A. W. Basile, and Canadian Freightways Ltd., by a company official, Mr. G. Keizer.

It was noted early in the hearing that the applicant had filed a similar application previously, which had been refused after a public hearing by the Commission, and refused, as well, by the Lieutenant Governor in Council on appeal pursuant to section 52 of the *Motor Carrier Act*.

It was noted also that the applicant at the time of these proceedings does not have the appropriate complementary "foodstuffs" licence authority in its home jurisdiction, the Province of Alberta. It was disclosed that in fact, the application for complementary licence authority in the Province of Alberta had not yet even been filed.

The applicant called six witnesses, including the Secretary-Treasurer, Mr. Peter Petz, who told of many years of experience in the transportation business, the facilities and running equipment owned or operated by the applicant, the extent of licence authority held and problems facing the applicant, particularly the empty miles travelled on return trips from B.C. to Alberta. He expressed the applicant's desire to improve the economics of its operation by balancing its traffic on that lane.

Other witnesses testified as to the excellent service provided by the applicant and its ability to meet specific and rush requirements.

The objectors and the witnesses called by them emphasized that the application was similar to one previously filed and rejected at a joint hearing of the B.C. and Alberta boards and subsequently rejected on appeal. They stressed the overservicing of the Alberta/B.C. route and the fierce competition on that lane. They emphasized the economic downturn and the fact that they had idle equipment and that further

competition would materially affect their operations. Mention was also made of the investment that the objectors had in terminals and equipment, and the fact that there was no evidence that the applicant, who was seeking a very extensive authority, would make any such investment in B.C., or add materially to employment in this province.

After considering all of the information before it, including all exhibits, testimony, and argument presented at the hearing, the Commission has concluded that the application should not be granted as filed, but it does believe that there are justifiable grounds for granting the carrier, which is somewhat specialized in its field, the lesser authority that was adequately supported at the hearing.

Accordingly, the Motor Carrier Commission orders that the application be and it is *hereby refused* in the form applied for, but the applicant, Canyon Distributors Ltd., be and it is hereby granted, subject to having or acquiring beforehand, complementary licence authority from the home Province of Alberta, and subject to the filing with the Commission of satisfactory contracts with the named shippers, the following additional authority:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
Fresh and frozen meats, poultry and seafood.	1. Columbia Meats Ltd. 2. Everfresh Meat Processors Ltd. 3. Multi-National Foods.	From the B.C./Alberta border transported to points in Licence Districts 3, 4, 5, 6, 14, 14A, and 15, to Kamloops and 25 road miles therefrom; or vice versa.
Fresh fruits and vegetables (charter trips).	One individual or company only at any one time.	From points in Licence Districts 3, 4, 5, 6, 14, 14A, and 15, transported to the B.C./Alberta border.
Egg crates (empty) (charter trips).	One individual or company only at any one time.	From Langley, B.C. to the B.C./Alberta border.

Restriction: Pick-up of freight in British Columbia for delivery in British Columbia *NOT* permitted.

It is further ordered that the "corridor" portion of the application, be and it is hereby also granted, which will add to the existing Clauses 1, 3, and 4 of the applicant's present Conditions of Licence under the Area, Route or Territory to be served, the following wording:

> "and from the British Columbia/United States boundary in transit through British Columbia to the British Columbia/Alberta boundary for furtherance to points in the Province of Alberta and vice versa."

It is further ordered that the security deposits filed by the applicant and by the objectors in these proceedings be refunded.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

93-84

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Applications: (A) W. E. Walden Transport Ltd., published as No. 275/84; (B) Lang Cattle Co. Ltd., published as No. 276/84; and (C) Lloyd Hutton Transport Ltd., published as No. 277/84.

Before: GERARD M. MORRIS, *Chairman*.

Dated the 14th day of December 1984.

ORDER

On September 5, 1984, the Commission issued its Order No. 65-84, being its decision with respect to Clause 2 of the applications identified above, and indicated that a supplementary Order and Decision would be issued in due course, once it had had the opportunity to study Affidavits relating to Clause 1 of the application, which were to be in the hands of the Commission prior to September 30, 1984.